

REMARKS

In light of the remarks to follow, reconsideration and allowance of this application are respectfully solicited.

At paragraphs 2-4 of the Office Action under reply, claims 21, 24, 28, 31 and 35 were rejected because the preamble recited, "A system for defining internal variables ... that govern the operation of the instrument," and the Examiner contends that there is insufficient antecedent in the preamble for the word "the." Claims 21, 24, 28, 31 and 35 are amended to eliminate the objected to word. Accordingly, the withdrawal of the rejection based upon 35 USC 112 is requested.

At paragraph 14 of the Office Action under reply, claims 21-23 and 28-30 were found allowable, subject to overcoming the rejection based upon 35 USC 112. Since this rejection has been overcome, it is clear that claims 21-23 and 28-30 are in allowable form.

At paragraphs 6-13 of the Office Action under reply, claims 24-27 and 31-38 were rejected under 35 USC 103 as allegedly being obvious in view of U.S. Patent 4,217,651 (Pickering). Reconsideration and withdrawal of this rejection is respectfully requested.

Pickering is concerned with "determining the uncertainty value of an electrical measuring instrument, such as a digital voltmeter" (see Abstract and column 1, lines 5-7 of Pickering). In contrast, the present invention, as defined by the claims, is directed to a method and apparatus "for defining internal variables ... that govern the instrument's operation." The "uncertainty" of an instrument's reading has nothing to do with the instrument's operation. That is, the instrument's reading does not "govern the instrument's operation." It is respectfully submitted that since Pickering is not concerned with a technique of defining internal variables that govern the operation of the instrument, it follows that one of ordinary skill in the art, after reading and

understanding Pickering would not be motivated by that reference to define such variables. Hence, for this reason alone, Pickering does not render obvious any of Applicant's claims.

The rejected claims call for, "means for defining a range of values of a variable corresponding to one or more physical restraints of a corresponding physical structure of the instrument." Non-limiting examples of "variable corresponding to ... physical restraints" are described in the specification of the instant application at, for example, pages 7 and 8. Pickering, at column 3, lines 41-42, particularly noted by the Examiner, merely states that "data processing apparatus 10 [is] arranged to control an analog to digital converter (ADC) 12 arranged to function as a digital voltmeter." It is incorrect to construe this portion of Pickering as describing means for defining a range of values of a variable corresponding to one or more physical restraints of a corresponding physical structure of an instrument. Moreover, it should be pointed out that Pickering refers to X and Y as accuracy specification values (see column 1, lines 29-35), not as a range of values of a variable that corresponds to a physical restraint of a structure of Pickering's instrument. Contrary to the Examiner's assertion, it is not obvious from Pickering to define such a range of values of a variable -- there is nothing in Pickering that corresponds to this claimed recitation.

The rejected claims also recite that the selected value for the variable is "confirmed" to be "within the defined range of values." The Examiner argues that Pickering describes such "confirmation" at column 4, lines 48-53. But Pickering states, "the signals at terminals 31 and 34 [temperature and period] and signals indicative of the range and function of the data are fed into the microprocessor to enable it to select the appropriate X and Y values." This portion of Pickering has nothing to do with confirming that selected values are within the defined range. There is no defined range for temperature and period. Alternatively, if the signals at terminals 30

and 34 are the accuracy specification values, or readings X and Y (see column 4, lines 39-42), there is nothing in Pickering to suggest that X and Y should be within a defined range, and there is nothing to suggest that there is any confirmation that X and Y are, indeed, within a defined range. It must be emphasized that the defined range of Applicant's claims is not any arbitrary range, but it is the range "of values of a variable corresponding to one or more physical restraints of a corresponding physical structure of the instrument." This is completely foreign to Pickering's description.

Finally, the Examiner contends that Pickering's memory 22 stores "basic values of variable [col. 2, lines 57-59; col. 4. lines 62-64] but does not explicitly teach means for storing the selected value of the variable." Memory 22 of Pickering stores the accuracy specification of the ADC. The accuracy specification values X and Y are preset -- they are not "the value of the variable [which has been selected] when said value is confirmed to be within said defined range." It is respectfully submitted, the Examiner's statement that "one of ordinary skill in the art would have recognized that if the values of X and Y are appropriate, the values are selected and may then be used in future testing and measuring ... [t]herefore, it would have been obvious ... to store the selected appropriate values in the memory for future use," is inapposite. The values of X and Y, that is, Pickering's accuracy specification values are stored -- Applicant does not dispute this. But the stored values are not the values that are confirmed to be within a defined range, and they are not the values of a variable that corresponds to a physical restraint of a corresponding physical structure of the instrument. Pickering's stored X and Y and Applicant's stored value are completely different; and one of ordinary skill in the art, after reading Pickering, would not be enabled by that reference to make and use Applicant's invention as defined by the rejected claims.

Therefore, it is respectfully requested that the rejection of claim 24 as being obvious in view of Pickering be withdrawn.

Claims 31 and 35 include recitations similar to those of claim 24, discussed above. Accordingly, the rejection of claims 31 and 35 should be withdrawn for the same reasoning as just provided. In addition, claim 35 states that if the value for the variable (that corresponds to a physical restraint of a corresponding physical structure of the instrument) “is determined to be outside of the predetermined range, the variable is not set to the stored value.” The Examiner recognizes that this feature is not described by Pickering, but nevertheless argues that it would be obvious for Pickering to incorporate this function, especially in view of Pickering’s specification at col. 2, lines 2-3. But, Pickering’s specification states the objective of his invention is to determine the uncertainty value of a measured reading, and this is done in response to a stored accuracy specification and a measured reading, resulting in the “calculat[ion] [of] the said uncertainty value and displaying the calculated uncertainty value” [col. 2, lines 2-3]. Nothing is said in Pickering of not setting the variable, which governs the operation of a portion of the instrument, to a stored value if the value of the variable is outside the predetermined range. It follow, then, that one of ordinary skill in the art would not learn from Pickering the very feature recited in Applicant’s claim 35 that Pickering does not mention. Pickering’s silence of this feature cannot possibly render it obvious.

Claims 25-27 depend from claim 24; claims 32-34 depend from claim 31; and claims 36-38 depend from claim 35. All of these dependent claims include the limitations recited in the independent claims from which they respectively depend. That these limitations are not obvious from Pickering has been explained in detail above. Consequently, claims 25-27, 32-34 and 36-38 are patentable over Pickering for the very same reasons that have been presented.


Claims 21-23 and 28-30 are in condition for allowance. Claims 24-27 and 31-38 are patentably distinct over Pickering. Claims 21-38, all the claims present in this application, are in allowable form. The issuance of the Notice of Allowance is respectfully requested.

Statements appearing above in respect to the disclosures in the cited reference represent the present opinions of the undersigned attorney and, in the event the Examiner disagrees with any of such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the reference providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,
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